

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on September 11, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with § 133.308(r)(9), the Commission hereby Orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the Order, the Commission will add 20-days to the date the Order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The pharmacy, med/surgical supplies, radiology, operating room service, anesthesia resp. services, recovery room and ekg/ecg were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of the pharmacy, med/surgical supplies, radiology, operating room service, anesthesia resp. services, recovery room and ekg/ecg charges.

This Findings and Decision is hereby issued this 20th day of November 2003.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to date of service 9/12/02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 20th day of November 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: November 12, 2003

RE: MDR Tracking #: M5-04-0154-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Anesthesiologist/Pain Management physician reviewer who is board certified in Anesthesiology/Pain Management and has ADL certification. The Anesthesiology/Pain Management physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

The claimant was injured on ___ resulting in injury to the back and left leg. The claimant was treated conservatively but failed to respond. In January of 2001 she had an MRI showing a left herniated disc compressing the left nerve root. Because of this the claimant underwent a left hemilaminectomy, discectomy, and foraminotomy with nerve root decompression. In August of 2001 the claimant continued to have complaints of pain. A CT myelogram in January of 2002 showed a recurrent disc herniation at the same area. The claimant again was treated conservatively but again had no improvement. A repeat MRI in May of 2002 again showed disc herniation at the L5-S1 causing compression and swelling of the left S1 nerve root. The claimant was recommended for epidural steroid injections and possible surgical revision if the claimant did not respond to the epidural steroid injections.

Requested Service(s)

Payment for the procedure and related cost for the epidural steroid injection that was performed on 9/12/02.

Decision

I disagree with the insurance carrier. I feel that these were medically necessary and indicated and they should be covered.

Rationale/Basis for Decision

The documentation and imaging studies clearly show that the claimant did have a disc herniation causing neurological compression with symptoms consistent with that. The claimant between the months of May and September of 2002 was seen by ___ and all of them felt that the disc herniation should be treated with epidural steroids and possibly surgery. The claimant also had an independent medical examination in May of 2002 by ___, again feeling that further treatment modalities were indicated. The insurance company is relying on a review done by ___ on 08/20/02 who states that the claimant does have a disc herniation and does have symptoms but no further treatment is warranted.

It is my impression that the claimant does have significant findings to cause the current symptomatology and further treatment in the way of epidural steroids and possible surgery if the epidural steroids fail would be indicated. There is also opinions from at least five other doctors including an independent medical examiner who will agree with this. ___ one evaluation seems to be an outlying opinion and differs dramatically from all the other doctors involved in the case.